



TESTIMONY BEFORE THE COMMITTEE ON LABOR AND PUBLIC EMPLOYEES
REGARDING H.B. 6332 -- AN ACT CONCERNING
HOME HEALTH CARE AIDES AS INDEPENDENT CONTRACTORS

February 26, 2009

Senator Prague, Representative Ryan, members of the Committee on Labor and Public Employees, my name is Brian Ellsworth and I am President & CEO of the Connecticut Association for Home Care & Hospice (CAHCH), whose members serve over 100,000 elderly, disabled and terminally ill Connecticut citizens. We are pleased to provide comments today on H.B. 6332, which purports to designate certain "home health aides" as independent contractors.

The plain language of this bill proposes to exempt service performed by certain individuals who provide homemaker, companion or home health services from the rules regarding unemployment compensation. The bill further states that those individuals providing such services who work more than 26 hours per week per home and who work for licensed home health agencies, homemaker-health aide agencies or assisted living services agency would not receive the exemption from participation in unemployment compensation.

The Association **opposes** H.B. 6332 because it is potentially harmful to home care patients and workers and will have unintended consequences.

This bill is potentially harmful to home care patients and workers for several reasons, including that it is misleading. Contrary to its title and stated purpose, this bill in no way confers "independent contractor" status on "home health aides." All it does is exempt a class of caregivers¹ from participation in unemployment compensation. Other elements of state and federal law, such as wage and hour laws and the tax code, have their own tests for whether a person is an independent contractor or an employee. This bill has no effect on those laws and instead could create confusion in the eyes of the consumer or the worker, resulting in retroactive liability for taxes and/or penalties for violations of those rules.

¹ None of the caregivers in the proposed exempted class are actually "home health aides" as the term is commonly used in the field, public health code, DSS Medicaid regulations or federal law & regulation.

The bill is harmful to workers because it will leave certain classes of home care workers without unemployment compensation (in addition to workmen's compensation).

Among the possible unintended consequences of this bill are that already unlevel playing fields will be exacerbated between certain forms of home care, conferring competitive advantage to less regulated forms of care at the expense of other providers. For instance, Medicaid funded personal care assistants and unlicensed private pay-only agencies providing care to "chronic and stable" patients² would no longer have to participate in the unemployment compensation system. By contrast, licensed home health agencies and homemaker-home health aide agencies, already significantly under-funded by Medicaid, must participate in unemployment compensation (as well as workmen's compensation). Ultimately, this could result in a decline in licensed agencies and a reduction in access to Medicare and Medicaid covered services for the elderly and disabled.

The Association is willing to work with the General Assembly on a more comprehensive solution to the challenges that face home care, one that helps to ensure that high quality home care is provided to patients and their families in a cost effective manner. Such a solution needs to address all of the various forms of home care in an equitable fashion.

Thank you for consideration of these concerns.

² Less than 26 hours per week per home.